

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TRIBAL WELFARE DEPARTMENT - LTR - Sri Chalabathula Simhadri, S/o. Apparao R/o. Indukurupeta (V), Devipatnam (M), East Godavari District presently in ASR District against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District in CMA No.33/2008, dated:06.04.2009 in respect of land an extent of Acs. 0.80 in Survey No: 122/1B situated at Indukurupeta (V), Devipatnam (M), Alluri Sitharamaraju District erstwhile East Godavari District - Dismissed-Orders - Issued.

SOCIAL WELFARE (TW.LTR.I) DEPARTMENT

G.O.MS.No.59

Dated:17.10.2023

Read the following:

1. Revision Petition filed by Sri Chalabathula Simhadri, S/o. Apparao, R/o.Indukurupeta (V), Devipatnam (M), East Godavari District presently in ASR District before the Hon'ble Dy. CM(TW), dated.05.05.2005, resubmitted dated: 08.07.2009.
2. From the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District, C.M.A. No.33/2008, dated: 17.01.2013.

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ORDER:

In the reference 1st read above, Sri Chalabathula Simhadri,S/o.Apparao, R/o. Indukurupeta (V), Devipatnam (M), Alluri Sitharamaraju District erstwhile East Godavari District filed a revision petition against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Siitharamaraju District in CMA No.33/2008, dated: 06.04.2009 in respect of land an extent of Acs. 0.80 in Survey No: 122/1B situated at Indukurupeta (V), Devipatnam (M), Alluri Sitharamaraju District erstwhile East Godavari District.

2. Brief history of the subject case:

- a. Sri Annika Peda Venkateswarlu and Mirthiwada Venkata Ramana Reddy of Indukurupeta Village of Devipatnam Mandal, ASR District filed a complaint on behalf of the State for Restoration of the Petition Scheduled land to the Government after ejecting Sri Chalabathula Simhadri, S/o.Appa Rao and another, R/o.Indukurupeta of Devipatnam Mandal, ASR District.

- b. The Agency Divisional Officer, Rampachodavaram after due verification of the records has observed that the Petition Scheduled land (in LTR No.81/2007) belongs to State Government as it's classified as Assessed Wet under caption as "Banjar" the respondents in both the encroachments of the Petition Scheduled land for which they are not eligible, and the Counsel of the Respondent could not provide any documentary evidence for conversion of the Assessed waste land as Ziroyati and vested to the respondents herein.
- c. The Divisional Officer, Agency Rampachodavaram decree ejectment against the respondents in possession and enjoyment of the Petition Scheduled Lands and further directed that the said property be restored to the State for onward assignment to eligible Tribes as per the rules in force from time to time.
- d. Aggrieved by the orders of the Agency Divisional Officer, Rampachodavaram (TW), Sri Regam Peda Rajulu, S/o.Janayya and Sri Patara Rajulu, S/o. Narasayya, Bayyanapalli Village, Gangavaram Mandal has filed an appeal against the orders dated:05.09.2000 in LTRP No.13/2000 & LTRP No.128/2000 before the Additional Agent to Govt. cum Project Officer, ITDA Rampachodavaram, Alluri Sitharamaraju District.
- e. After careful examination of the matter, the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram has verified the records and observed that, as per the Fair Adangal the Petition Scheduled land originally classified as Assessed Wet under caption as "Banjar" which belongs to the State at the disposal of the Government. The appellant could not provide any documentary evidence for conversion of the Assessed Wet land as Ziroyati and how it got vested to the appellant, Challabathula Simhadri. Further he informed that the Settlement Officer who conducted enquiry under regulation 2/70 observed that, the petition scheduled land as "Assessed Wet" under caption as "Banjar".
- f. Finally, the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram in exercise of the powers conferred by sub-section (3) of Rule 8 of the Andhra Pradesh Scheduled Areas Land Transfer Rules, 1969 and APSALR 1 of 1959 as amended by 1970, ordered that there are no reasons to interfere with the orders passed by the lower court and upheld the orders passed in ADO LTR No.81/2007, and accordingly dismissed the appeal. The Tahasildar, Devipatnam Mandal is here by directed to eject the non-tribal respondent or any other people bound by this order from the Petition Scheduled land if not already done and restore the same to the State for onward assignment to eligible tribals and comply the report.

3. Aggrieved by the above orders, the Sri Chalabathula Simhadri, S/o. Apparao R/o. Indukurupeta (V), Devipatnam (M), Alluri Sitharamaraju District erstwhile East Godavari District has filed a Revision petition dated:05.05.2005, resubmitted after complying with Govt. memo dated: 08.07.2009 before the Government of A.P., against the orders of the Additional Agent to the Govt. cum Project Officer, ITDA, Rampachodavaram, Alluri Siitharamaraju District in CMA No.33/2008, dated: 06.04.2009 in respect of land in an extent of Acs. 0.80 in Survey No: 122/1B situated at Indukurupeta (V), Devipatnam (M), Alluri Siitharamaraju District with a request to stay all further proceedings in pursuance of the order passed by the Addl. Agent to Govt. cum Project Officer, ITDA, Rampachodavaram in the interest of justice.

4. The Project Officer, ITDA, Rampachodavaram cum the Additional Agent to the Government has been requested to furnish the detailed Parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. Accordingly, the Project Officer, ITDA, Rampachodavaram in his letter dated: 17.01.2013 has enclosed the copy of order issued by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District passed in CMA No.33/2008, dated: 06.04.2009 and the remarks on the affidavit filed by the Petitioner.

5. The said Revision Petition has been posted for hearing before the Hon'ble Revision Authority on several dates and finally came up for hearing on 26.08.2023 duly informing the same to the petitioner and defendants. During the course of the hearing and on perusal of the connected records/relevant materials and Para-wise Remarks submitted by the Project Officer, ITDA, Rampachodavaram cum Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District and written arguments filed by both parties counsels, the Revision Authority has observed that:

(I) This Revision Petition is filed by Sri Chalabathula Simhadri S/o. Apparao, R/o. Indukurupeta (V) Devipatnam (M) East Godavari District presently in ASR District against the orders of the Additional Agent to Government, Rampachodavaram, with regard to lands admeasuring Ac.0.80 in Survey No: 122/1B situated at Indukurupeta (V), Devipatnam (M), ASR District erstwhile East Godavari District passed in CMA No. 33/2008, dated: 06-04-2009, dismissing the appeal, while upholding the orders of the Agency Divisional Officer passed in ADO LTR No. 81/2007, dated: 28.1.2008, and ordering to restore the Petition Schedule land in favour of the State for onward assignment to eligible tribals.

(II) The matter came up for hearing finally before the Revision Authority on 26-08-2023. The Special Deputy Collector is present. The Revision

Petitioner is continuously absent inspite of notices sent to him to appear before the Revision Authority. It seems the Revision Petitioner has no interest to pursue his case. However the following order is made after perusal of the available material documents including the Revision Petition filed on the record and on merits.

(III) The contention of the Revision Petitioner is that the sale transaction took place in the case was prior to the commencement of the Land Transfer Regulations and his possession is not in violation of the Scheduled Area Land Transfer Regulations and the agreement to sale prior to 1970 is valid though registration of said sale took place subsequently as per the ruling of Hon'ble High Court of A.P. reported in 1995 (3) ALD 222 and requested to set aside the impugned order of the Additional Agent to Government.

(IV) The Additional Agent to Govt. (AAG) furnished parawise remarks. The Additional Agent to Government opposed the grounds of the Revision Petition. The main contention of the AAG is that the Petition Schedule land in question is classified as "Assessed Wet BANJAR" under caption as "Banjar" as per the Settlement Fair Adangal as such it is Government land, and that possession of such land by non tribal is illegal and any sale transaction on such land is also illegal and the appellant failed to produce documentary evidence in support of his claim, and requested to dismiss the Revision Petition.

(V) Initially Sri Annika peda venkateswarlu and another Mirthiwada Peda Venkata Ramanareddy of Indukurupeta village of Devipatnam Mandal filed a complaint before the Agency Divisional Officer, Rampachodavaram in ADO LTR No. 81/2007 under section 3 (1) of the Andhra Pradesh Scheduled Areas Transfer Regulation 1 of 1959 as amended by Regulation 1 of 1970 for Restoration of the petition Scheduled land in their favour after ejecting the non tribal respondents.

(VI) The background of cases and rival submissions give rise to following points for consideration.

"Whether the non tribal is entitled to hold the Government land situated in the Scheduled Area and whether such occupation is hit by the provisions of the AP Scheduled Area Land Transfer Regulations of 1 of 59 as amended by 1 of 70"?

(VII) The Clause (b) of Section 3(1) which was substituted by Regulation 1 of 1970 raised a presumption that the property situated in the Agency Tracts in possession of a non-tribal shall be presumed to have been acquired by such a person or his predecessor-in-possession through a transfer made to him by a member of Schedule Tribe. The

transfer of lands situated in the scheduled area in favour of non tribals is prohibited under the Land Transfer Regulations 1 of 70.

(VIII) The Revision Petitioner failed to adduce any evidence to show that the lands in question are Ryotwari lands and has a valid title over the land to make a claim in his favour. The records available show that the lands in question are Government lands. Moreover there is no evidence to show that the non-tribal claimant has been in continuous possession and enjoyment of the schedule lands and his possession is not in violation of Land Transfer Regulations 1 of 70.

(IX) As per the ruling of the Hon'ble High Court of AP (2007(6) ALD 292) the land classified as Gayalu or Government land, the non-tribal person who is in possession of such land must be said to be "dealing" with such immovable property, which falls within the scope of "transfer" as defined under Section 2(g) of the Land Transfer Regulation 1 of 59 as amended by 1 of 70. Therefore the possession of the Government lands in question by the Revision Petitioners is in clear violation of the Land Transfer Regulations.

(X) The Hon'ble High Court of Andhra Pradesh further held that, "No non-tribal can seek assignment or entitlement over the Government lands and its related orders issued by the Government of Andhra Pradesh from time to time permitting the non-tribal land less poor to continue in occupation of the Government land in Schedule Areas were struck down by the Hon'ble High Court of Andhra Pradesh in P. Gangamma Vs VasudhaMisra and another case. (1998(2) ALD 35).

(XI) The Hon'ble Supreme Court of India Samata Vs Government of Andhra Pradesh(AIR SC-1997) held that, "the word "person" in section 3(1) would include both natural person as well as Juristic person and Constitutional Government and as such the transfer of land by juristic person or allotment of land by state to Non-Tribal stands prohibited". Therefore the State is prohibited to allow the nontribal to continue in the occupation of the Government lands.

(XII) The full bench decision of the Hon'ble High Court in its case Vemana Somalamma Vs Deputy Collector, Tribal Welfare, Rampachodavaram (1993(1) ALT 409) held that "the object of the Regulations seem to be that all immovable property in agency tract as far as possible must be restored to Government or Tribals, as it was held by them at one time."

(XIII) The sale or agreement to sale itself is prohibited in respect of Government lands. Therefore the ruling cited by the Revision Petitioner Hon'ble High Court of A.P. reported in 1995 (3) ALD 222 is not relevant

to the facts of the case. There is no valid and acceptable evidence produced by the Revision Petitioner in support of his claim.

(XIV) In exercise the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition filed by the Petitioner is hereby dismissed. Therefore the impugned order dated: 06-04-2009, passed by the Additional Agent to Government in CMA No. 33/2008 is hereby upheld with a modification that if the petitioners in ADO LTR No.81/2007 are tribals and eligible they may be considered for the assignment of Revision Petition lands. As a sequel interim orders if any passed in the matter are hereby vacated. Revision Petition is disposed of accordingly.

6. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under Section 6 of A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70, the orders passed by the Appellate Authority Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No. 33/2008 Dated: 06-04-2009 are hereby upheld and the Revision petition filed by Sri Chalabathula Simhadri, S/o. Apparao, R/o. Indukurupeta (V), Devipatnam (M), East Godavari District presently in ASR District against with regard to land an extent of Ac. 0.80 in Survey No: 122/1B situated at Indukurupeta (V), Devipatnam (M), Alluri Siitharamaraju District erstwhile East Godavari District is Dismissed and Interim orders passed if any are hereby vacated in the matter.

7. The Collector & District Magistrate, Alluri Sitharamaraju District, Paderu., is requested to take necessary action in the matter accordingly and acknowledge the receipt of the case records, which are returned herewith to the Additional Agent to Government/Project Officer, Rampachodavaram, Alluri Sitharamaraju District.

8. This order shall be published in apegazette.cgg.gov.in.

KANTILAL DANDE
SECRETARY TO GOVERNMENT(TW)

To
The Agent to Government/Collector & District Magistrate,
Paderu, Alluri Sitharamaraju District . PIN-530 011.
The Additional Agent to Govt. cum Project Officer, ITDA,
Rampachodavaram, Alluri Sitharamaraju District, PIN-533 288.(w.e)
The Special Deputy Collector, Rampachodavaram,
Alluri Sitharamaraju District. PIN-533 288
The Tahsildar, Devipatnam (M), Alluri Sitharamaraju District.
Sri K.Venkatesh, Advocate, 806, Valnut, Raintree Aptment,
Chinakakani, Mangalagiri, Guntur District, Cell

Sri Chalabathula Simhadri, S/o. Apparao, R/o. Indukurupeta Village,
Devipatnam Mandal, Alluri Sitharamaraju District.

Sri Mirthiwada Venkata Ramana Reddy, S/o. Ramireddy,
R/o. Indukurupeta Village, Devipatnam Mandal,
Alluri Sitharamaraju District.

Copy to:

The P.S. to Hon'ble Dy. Chief Minister (TW)

The P.S. to Secretary (TW).

The Commissioner of Printing, Stationery (for Publication in the AP
Gazette), Vijayawada.

SF/SC.

// FORWARDED :: BY ORDER //


SECTION OFFICER

